

Notice of Allowability

Application No.

10/051,719

Examiner

Frank I. Choi

Applicant(s)

SCHOLZ ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/11/2006.
2. ☒ The allowed claim(s) is/are 39-43,58,59,14,60-62,2-10,63,11,12,15-37,54-56[renumbered as claims 1-49].
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date attached hereto.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.


JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
Group 1600

EXAMINER'S AMENDMENT/REASONS FOR ALLOWANCE

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ann Muetting on 7/24/2006.

The application has been amended as follows:

Claim 61, line 1: delete "claim 61" and insert in place thereof the following:

-- claim 58 --.

The following is an examiner's statement of reasons for allowance:

In consideration of Amendment (5/11/2006) and in reconsideration of the prior Office Actions and responses thereto, the restriction of claims 22-24,32-36,40 is withdrawn and the claimed invention is neither expressly disclosed nor fairly suggested by the prior art. The prior art does not disclose or make obvious a stable antiseptic composition that combines an antimicrobial agent selected from iodine and/or iodophor, where the available iodine is not more than about 1.5 wt%, with a hydroxycarboxylic acid buffer in an amount in excess of 5wt%, water and a substantive cationic film-forming polymer. Kross (US Pat. 5,618,841) teaches that it is desirable for the organic acid buffer to be in the concentration range of from about 0.05% to 5.0% and that higher amounts of organic acid buffer is used when higher amounts of iodine are present, such as 0.2% acid with 0.2% iodine and 2% acid with 2% iodine (Column 5, lines 29-38). As such, Kross teaches away from the claimed invention as presently amended by teaching away from using greater than 5% of an organic acid buffer when, as claimed in the present

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claims, less than about 1.5 wt% of iodine is present. In view of the above, the double-patenting rejections over Application No. 10/922,262 (provisional) and US Pat. 6,838,078 are withdrawn as the claims of said application and patent, alone, neither expressly disclosed nor fairly suggested the claimed invention. Further, in consideration of said Amendment (5/11/2006) and Response (5/11/2006), the rejections under 112-1st and 2nd paragraphs are withdrawn (Response (5/11/2006), pages 14,15).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

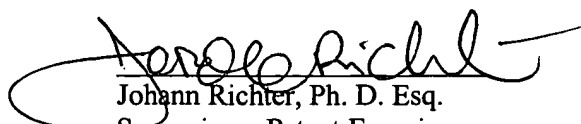
A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a compressed schedule and may be reached Monday, Tuesday, Thursday, Friday, 6:00 am – 4:30 pm (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Dr. Johann Richter, can be reached at (571)272-0646. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Choi
Patent Examiner
Technology Center 1600
July 24, 2006


Johann Richter, Ph. D. Esq.
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